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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
841 Chestnut Building  
Philadelphia, Pennsylvania 19107

JUL - 2 1990

**NOTICE OF POTENTIAL LIABILITY**  
**AND OFFER TO NEGOTIATE FOR REMOVAL ACTION**  
**AND REQUIRED SUBMISSION OF INFORMATION**  
**URGENT LEGAL MATTER -- PROMPT REPLY NECESSARY**  
**CERTIFIED MAIL: RETURN RECEIPT REQUESTED**

Mr. Bernard Featherman  
4045 Torresdale Avenue  
Philadelphia, Pennsylvania 19135

Re: State Road Site, 7401 State Road, Philadelphia, PA

Dear Mr. Featherman:

This letter confirms notification of potential liability that you may incur or may have incurred with respect to the State Road Site ("Site"), pursuant to Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9607(a). This letter also notifies you of forthcoming removal activities at the Site which you may be asked to conduct and/or finance at a later date. Finally, this letter requires that you provide certain information to the United States Environmental Protection Agency ("EPA").

**NOTICE OF POTENTIAL LIABILITY**

The United States Environmental Protection Agency has documented the release or threatened release of hazardous substances, pollutants, or contaminants at the above-referenced Site. EPA has spent, or is considering spending, public funds on actions to investigate and control such releases or threatened releases at the Site. Unless EPA reaches an agreement under which a potentially responsible party ("PRP") or parties will properly perform or finance such actions, EPA may perform these actions pursuant to Section 104 of CERCLA, 42 U.S.C. § 9604.

Under Sections 106(a) and 107(a) of CERCLA, 42 U.S.C. §§ 9606(a) and 9607(a), Section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6973, and other laws, potentially responsible parties ("PRPs") may be obligated to implement response actions deemed necessary by EPA to protect public health, welfare or the environment, and may be liable for all costs incurred by the government in responding to any release or threatened release at the Site. Such actions and costs may include, but are not limited to, expenditures for investigations, planning, response, oversight, and enforcement activities. In addition, PRPs may be liable for damages to natural resources. EPA may issue an administrative order pursuant to Section 106(a)

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of CERCLA which requires PRPs to commence cleanup activities. Failure to comply with an administrative order issued under Section 106(a) of CERCLA may result in a fine of up to \$27,500 per day pursuant to Section 106(b) of CERCLA and/or imposition of treble damages pursuant to Section 107(c)(3) of CERCLA.

EPA has evaluated information in connection with the Site. Based on this information, EPA believes that you may be a PRP with respect to this Site. PRPs under CERCLA include current owners and operators of the Site, owners and operators at the time of disposal, as well as persons who arranged for disposal or treatment of hazardous substances sent to the Site, or persons who accepted hazardous substances for transport to the Site. The substances of concern include polychlorinated biphenyls (PCBs) found in the soil, concrete, containers and in transformers at the Site. By this letter, EPA notifies you of your potential liability with regard to this matter and encourages you to perform or finance those response activities that EPA determines are appropriate at the Site.

### **SITE RESPONSE ACTIVITIES**

At present, EPA is conducting and/or is planning to conduct the following activities at the Site:

1. Secure the Site from entry by unauthorized personnel, thereby minimizing the potential for vandalism and the potential for direct or indirect contact with the contaminants to reduce the threat of endangerment to human health and the environment.
2. Confirm the location of suspected PCB-contamination at the Site by conducting a preliminary assessment through sampling.
3. Remove all PCB transformers, PCB capacitors and PCB labeled containers from the building and prepare for disposal.
5. Sample the soils and concrete surrounding the suspected PCB transformer areas in order to determine the extent of soil/concrete contamination and the potential for migration of contaminants.
6. Upon determination of PCB contamination in soils and concrete, evaluate the appropriate corrective measures that can be implemented.
7. Remove PCB-contaminated soil and/or concrete.
8. Prepare the PCB transformers, PCB capacitors, PCB containers and PCB-contaminated soils and concrete for proper transportation and disposal.
9. Arrange for the proper transportation and disposal of the hazardous substances in accordance with all applicable or relevant and appropriate requirements of federal, state

and local laws.

### **DECISION NOT TO USE SPECIAL NOTICE**

Under CERCLA Section 122(e), 42 U.S.C. § 9622(e), EPA has the discretionary authority to invoke special notice procedures to formally negotiate the terms of an agreement between EPA and PRPs to conduct or finance response activities. Use of these special notice procedures triggers a moratorium on certain EPA activities at the Site while formal negotiations between EPA and the PRP or PRPs are conducted.

In this case, EPA has decided not to invoke the Section 122(e) special notice procedures. It is EPA's policy not to use the special notice procedures for removals unless there is 6 months of lead time for planning, after the decision to perform a response action and prior to the initiation of the action. Because the lead time prior to the initiation of this response action is less than 6 months, special notice procedures will not be used. Nonetheless, EPA is willing to discuss settlement opportunities without invoking a moratorium, but will initiate the response action as planned if such discussions do not lead to settlement expeditiously.

### **ADMINISTRATIVE RECORD**

Pursuant to Section 113(k) of CERCLA, 42 U.S.C. § 9613(k), EPA will establish an administrative record that contains documents forming the basis of EPA's decision on the selection of a response action for the Site. The administrative record files will be available to the public for inspection and comment. The primary location for the administrative record is generally the EPA Regional office located at 841 Chestnut Building, Philadelphia, PA 19107.

### **PRP RESPONSE AND EPA CONTACT**

You are encouraged to contact EPA within five (5) business days of receipt of this notice to indicate your willingness to participate in future negotiations regarding this Site. If EPA does not receive a timely response, EPA will assume that you do not wish to negotiate a resolution of your liability in connection with the response, and that you decline any involvement in performing the response activity. You may be held liable under Section 107(a) of CERCLA for the cost of the response activities that EPA performs at the Site and for any damages to natural resources.

### **INFORMATION TO BE SUBMITTED**

EPA is further investigating the source, extent and nature of the release or threatened release of hazardous substances, pollutants or contaminants into the environment at the Site. This investigation includes, among other things, an inquiry into the past and present ownership and operation of the Site. EPA is also seeking information concerning the generation, storage, treatment, transportation, and disposal methods of such substances that have been or threaten to be released from the Site. EPA believes that you may possess information which may assist the

Agency in its investigation of the Site. Finally, EPA is seeking financial information about you so that EPA may determine whether you have the financial capability to participate in or conduct the response action.

Authority to require submission of this type of information has been given to EPA by Congress under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), and under Section 3007(a) of RCRA, 42 U.S.C. § 6027(a). The provisions in Section 104 of CERCLA authorize EPA to pursue penalties for failure to comply with these provisions or failure to respond adequately to required submissions of information. In addition, providing false, fictitious or fraudulent statements or representations may subject you to criminal penalties under 18 U.S.C. § 1001. The information you provide may be used by EPA in administrative, civil, or criminal proceedings.

In order to complete its investigation, EPA requires you to respond fully and completely to the items set forth below and to the financial statement enclosed with this letter. Please provide the information requested to EPA within **ten (10) calendar days** of your receipt of this letter. The following instructions should clarify the questions asked and guide your response.

As used in these questions, the term "you" should be interpreted to include you, any of your predecessors in interest, any of your other related entities, and any of your employees, contractors or agents. Where you identify a predecessor in interest or related entity in response to any of the questions, please describe in detail the nature of your relationship to that entity and the nature of that entity's business interest.

In addition, as used in these questions, the term "documents" means: writings (handwritten, typed or otherwise produced or reproduced) and includes, but is not limited to, any invoices, checks, receipts, bills of lading, weight receipts, toll receipts, correspondence, offers, contracts, agreements, deeds, leases, manifests, licenses, permits, bids, proposals, policies of insurance, logs, books of original entry, minutes of meetings, memoranda, notes, calendar or daily entries, agendas, bulletins, notices, announcements, charts, maps, photographs, drawings, manuals, brochures, reports of scientific study or investigation, schedules, price lists, telegrams, teletypes, phono-records, magnetic voice or video records, tapes, summaries, magnetic tapes, punch cards, recordings, discs, computer printouts, or other data compilations from which information can be obtained or translated.

The term "communications" is used in the broad sense and includes, but is not limited to, informal conversations, meetings, telephone conversations, electronic transmissions, letters and all documentary transmittals.

When identifying a person, set forth the person's (1) full name, (2) last known business address and telephone number, (3) last known home address and telephone number, and (4) last known employer and employment position.

When identifying a document, either attach the document to your response and indicate the

questions to which it is responsive, or (1) state its date and author, (2) state the type of document (e.g. letter), (3) briefly describe its subject matter, and (4) identify the document's present location and the person having custody of the document.

When identifying an oral communication, (1) state the date and place of the communication, (2) identify each person who participated in the communication, (3) identify each person who was present during the communication who did not participate in it, (4) state the substance of the oral communication, and (5) identify each document referring or relating to the communication.

### **QUESTIONS**

1. Describe your business activities that resulted in your generating or obtaining the hazardous substances that are the subject of this notice and/or that were disposed of or abandoned at the Site. Include the dates of operation and information related to the management of the business. If those operations have ceased, describe when and why you ceased those operations.
2. Describe the types of operations conducted by you at the State Road Site. Please include the dates of operation and information related to the management of the business. If those operations have ceased, describe when and why those operations ceased.
3. Identify all hazardous substances transported to, or generated, stored, treated, or disposed of at the Site by you and/or others at your direction or consent. Include:
  - a. every date on which the above took place;
  - b. the quantities of each type of material;
  - c. the physical state (i.e. liquid, solid or gaseous) of each material;
  - d. the methods by which the materials were contained or disposed of (i.e. drummed or contained, placed in lagoons, land filled, placed in piles, etc.);
  - e. how the hazardous materials were treated, stored, generated, and/or transported to the Site; and
  - f. when and why you ceased disposing of hazardous substances at the Site.
4. Identify any permits, permit applications, documents and communications between you and any regulatory agency regarding the materials transported to, or stored, treated, generated or disposed of at the Site. Provide copies of the documents.
5. When and under what terms/agreements did you acquire an ownership interest in or access to the Site? State the dates during which you owned, operated or leased the Site. Identify all documents or communications referring or relating to such ownership, operation or lease

arrangements (e.g. deeds, leases etc.). Provide copies of the documents.

6. During the tenure of your ownership or access to the Site, what, if any, leases did you grant to other parties? Identify any such leases. Provide copies of any such documents and identify any such oral agreements.
7. Identify any communications or other documents between you and any third party regarding materials transported to, or stored, treated, generated or disposed of at the Site by you. Provide copies of the documents.
8. Describe the activities that occurred at the Site during the period of your access to the Site. Describe the activities that occurred at the Site during the period that you did not have access to the Site.
9. To what extent were your employees involved in operations at the Site?
10. Identify any communications or other documents relating to any other person or company who generated, treated, stored, transported, or disposed or who arranged for the treatment, storage, transportation or disposal of hazardous substances to or at the Site. Please provide copies of the documents.
11. What, if any, actions have been taken by you or any other party to clean up or respond to contamination at the Site? Identify any documents or communications referring or relating to these actions. Please provide copies of the documents.
12. Identify each person having knowledge of the information requested in these questions.
13. Identify each person (other than your attorney or the attorney's clerical staff) who assisted in the preparation of the responses to these questions.
14. Please complete the enclosed individual financial questionnaire.

You are entitled to assert a claim of business confidentiality covering all or any part of the submitted information, in the manner described in 40 C.F.R. Section 2.203(b). Information subject to a claim of business confidentiality will be made available to the public only in accordance with the procedures set forth in 40 C.F.R. Part 2, Subpart B. If a claim of business confidentiality is not asserted at the time the required information is submitted to EPA, EPA may make this information available to the public without further notice to you.

This required submission of information is not subject to the approval requirements under the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501 et seq.

The factual and legal discussions contained in this letter are intended solely for notification

and information purposes. They are not intended to be and cannot be relied upon as final EPA positions on any matter set forth herein.

Please respond to this letter in writing. As stated above, your response regarding your willingness to participate in cleanup activities at the Site should be submitted to EPA within **five (5) business days** of your receipt of this letter. Your response to the information request should be submitted to EPA within **ten (10) calendar days** of your receipt of this letter. Your responses should be sent to:

U.S. Environmental Protection Agency  
Michael Welsh, OSC  
Removal Enforcement & Oil Section (3HS32)  
841 Chestnut Building  
Philadelphia, PA 19107  
(215) 566-3285

If you or your attorney have any questions pertaining to this matter, please direct them to Michael Welsh, referred to above, or any legal questions to Gail Wilson, Assistant Regional Counsel, at (215) 566-2493.

Sincerely,

  
Abraham Ferdas, Director  
Hazardous Site Cleanup Division

Enclosure

cc: Michael Welsh  
Gail Wilson